

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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|------------------------------|---|-------------------------|
| In re                        | : | Chapter 11              |
|                              | : |                         |
| HIGHPOINT ASSOCIATES XV, LLC | : | Case No. 23-10805 (MEW) |
|                              | : |                         |
| Debtor.                      | : |                         |

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**SCHEDULING ORDER**

On July 6, 2023, a status conference (the “July Conference”) was held in this case. Among other things, the conference focused on a dispute between Highpoint LLC (the “Debtor”) and 315 East 56th Owners Corp. (the “Co-op Board”) related to the Debtor’s failure to pay post-petition co-op payments for the 16 co-op units owned by the Debtor. At a prior status conference held on June 28, 2023, the Court had directed the Debtor to become current by July 6, 2023 on post-petition co-op payments for the May stub period and the June 2023 rent. At the July Conference, Debtor’s counsel acknowledged that the Debtor had not made any further post-petition payments but was prepared to wire \$30,000.00 to cover some of the amounts due. However, the Debtor’s counsel acknowledged that the payments constituted “rent” for purposes of section 365(d)(3) of the Bankruptcy Code, and the Court noted that the time for the Debtor to become current on post-petition rent payments could not be extended past July 21, 2023. The Court determined that it was clear that the Debtor owed more than \$30,000.00 in post-petition payments to the Co-op Board and that the Debtor should wire the \$30,000.00 to the Co-op Board immediately without any conditions attached to the payment. The Debtor was also instructed to comply with its post-petition payment obligations in the absence of an agreement to the contrary with the Co-op Board.

At the July Conference, the Court also inquired further of the Debtor as to what had become of the rental payments that it had collected from tenants. Counsel stated that the underlying information was being gathered but that some of the funds may have been transferred to other companies that are affiliates of the Debtor. Debtor's counsel stated that he expected to have more information regarding that issue by the date of the Debtor's section 341 meeting that was scheduled for July 12, 2023. The Court directed the Debtor's counsel to provide the United States Trustee's office with that information in advance of the date of the section 341 meeting.

In accordance with the Court's directions at the July Conference, it is hereby

ORDERED, that counsel for the Co-op Board should provide the Debtor's counsel, as quickly as possible, with a computation of what the Co-op Board believes is the May stub period rent payment due, as well as the amounts due for June and July rent payments; and it is further

ORDERED, that if the Debtor disagrees with the Co-op Board's computation the parties shall promptly inform the Court, and the Court will schedule further proceedings to resolve any issues; and it is further

ORDERED, that the Debtor should immediately wire \$30,000 to the Co-op Board for payment towards its post-petition rent obligations, and that the balance of the post-petition rent obligations through July 2023 be paid by July 21, 2023 (unless the Debtor and the Co-op Board agree otherwise); and it is further

ORDERED, that the parties shall advise the Court on or before July 18, 2023 as to whether the Debtor's post-petition rent payment obligations will be satisfied by July 21, 2023, and if not the Court will schedule an expedited hearing to determine what relief may then be proper; and it is further

ORDERED, that prior to July 12, 2023, the Debtor provide the United States Trustee's office with information concerning what happened to the rents that the Debtor collected from units over the years, including information regarding transfers made to the Debtor's owner and/or to affiliates of the Debtor; and it is further

ORDERED, that a further status conference will be held in this case on **August 1, 2023**  
**at 10:00 a.m.**

Dated: New York, New York  
July 7, 2023

/s/ Michael E. Wiles  
UNITED STATES BANKRUPTCY JUDGE